

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

NO. 7:13-CV-142-FL

SENIOR AIRMAN MATTHEW A.  
THEURER,

Petitioner,

v.

DEPARTMENT OF DEFENSE,

Respondent.

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ORDER

This matter comes before the court upon Memorandum and Recommendation (“M&R”) of United States Magistrate Judge William A. Webb (DE 15), regarding petitioner’s motion for order (DE 3), and respondent’s motion to dismiss (DE 7). No objections to the M&R have been filed, and the time within which to make any objection has expired. Also before the court is remaining part of respondent’s motion to shorten time periods, as it relates to any response by the creditor to its subpoena (DE 16). Said motion in this part was held in abeyance by order on September 12, 2013, awaiting the ripening of M&R, now ready for address.

BACKGROUND

For a more detailed iteration of the background in this case, the court references its September 12, 2013, order. M&R recently issued, wherein it is recommended that petitioner’s motion be denied, and respondent’s motion be allowed. Notice also was provided September 6, 2013, to petitioner of the objection processes adhered to in the regular course, according to the rules, where a party is accorded fourteen (14) days within which to file and serve objections, to which the other party may respond, also within fourteen (14) days. On September 11, 2013, respondent made

motion to shorten this time period, which was granted in part. Petitioner and Crossroad Financial Credit Union were served copies of the court's September 12, 2013, order, and no response or objection was made to M&R or to the remaining motion to shorten response time.

#### COURT'S DISCUSSION

The government's motion to shorten time is unresolved in part where respondent seeks to shorten the time the subject creditor has to respond to the subpoena at issue should the government's motion to dismiss ultimately be granted. The government again points to upcoming trial commencing October 14, 2013, and notes that if its motion to dismiss is granted, the creditor ordinarily would have thirty (30) days within which to respond to the subpoena. The government requests that the time be decreased, where it reiterates need to have time to receive and review the records and to provide them to defense counsel in ample time to prepare for trial.

Upon careful review of the M&R and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own (DE 15), and, for the reasons stated therein, petitioner's motion is DENIED (DE 3), and respondent's motion is GRANTED (DE 7). Respondent's motion to shorten time is also GRANTED as to the subpoena response time (DE 16). Crossroads Financial Credit Union shall have until **October 9, 2013**, to respond to the subpoena. This action is DISMISSED.

SO ORDERED, this the 20th day of September, 2013.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is cursive and fluid, with the first name "Louise" being more prominent than the last name "Flanagan".

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LOUISE W. FLANAGAN  
United States District Judge